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Committee against Torture
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Summary record of the first part (public)* of the 1212th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 29 April 2014, at 10 a.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention

Third periodic report of Uruguay (CAT/C/URY/3; CAT/C/URY/Q/3; HRI/CORE/1/Add.9/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Uruguay took places at the Committee table.*

2. **Mr. González Arenas** (Uruguay) said that, although the report had been submitted with a considerable delay, since almost two decades had elapsed since the consideration of the previous report, it testified to the efforts which Uruguay had been making for several years to honour its obligations towards all the treaty monitoring bodies. Uruguay had ratified all the international human rights instruments and the optional protocols thereto and it had issued a standing invitation to the human rights rapporteurs and experts of the United Nations and the inter-American system. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had already paid two visits to the country, in 2009 and December 2012.

2. Combating all forms of violence, including torture and ill-treatment, was one of the Government's priorities. To that end, a strategy for peaceful living and coexistence had been drawn up and the prison system was being reformed. In addition, laws had been adopted to improve detention conditions and reduce overcrowding in prisons.

4. The National Human Rights Institution, which had been designated the national preventive mechanism under Act No. 18446, in accordance with the Optional Protocol, had begun work in 2013. Its main role consisted in supervising the detention conditions of minors placed in adolescent detention facilities, since adult detention centres were currently inspected by the Parliamentary Commissioner for the Prison System pending the ability of the National Human Rights Institution fully to undertake all the duties of a national preventive mechanism.

5. **The Chairperson** (Country Rapporteur), noting that the definition of torture in article 22, paragraph 2, of Act No. 18026 relating to cooperation with the International Criminal Court was inconsistent with article 1 of the Convention and that torture was not defined as an autonomous crime in the Criminal Code, asked if the State party intended to incorporate article 1 of the Convention in its domestic legislation. He wished to know whether article 22 of Act No. 18026 had been cited in cases other than that referred to in paragraph 26 of the report and whether national courts had recognized the merits of the position adopted by former political detainees, namely that since the adoption of Act No. 18026, torture was not subject to the statute of limitations and torturers could no longer be amnestied.

6. He asked the delegation to describe progress made on the reform of the criminal justice system launched in 2005 and to provide details of current moves to reform the Code of Criminal Procedure, especially of the draft provision designed to ensure that victims could participate in proceedings. Since in March 2013 the Supreme Court had found that articles 2 and 3 of Act No. 18831, exempting human rights violations committed during the military dictatorship from prescription, were unconstitutional, he wished to know what effects the relevant decisions might have on action to combat the impunity of the perpetrators of such violations during that period and to ensure that victims or their next of kin could obtain redress. Amnesty International had expressed concern at the tendency of the State party's courts to refer to disappearances during the 1970s as "kidnappings". Since kidnapping was subject to the statute of limitations, there was a serious risk that persons who had committed such acts would go unpunished. In that respect, it would be interesting

to know whether the State party was contemplating the repeal of Act No. 15848 relating to the termination of criminal proceedings in order to ensure that persons who had committed crimes under international law were punished. The World Organisation Against Torture (OMCT) had been worried about the transfer, on the pretext of restructuring the judiciary, of Judge Marina Mota, who had played a very important role in investigating human rights violations committed during the dictatorship and in proceedings concerning those acts. Would the delegation please explain why Ms. Mota had been transferred and whether, since then, proceedings had been conducted with the same vigour.

7. He noted with concern that Act No. 18777 extended the length of minors' pretrial detention and that Act No. 19044 extended the minimum period of detention of minors guilty of certain crimes. He invited the delegation to explain how those laws squared with Act No. 17823 which established that deprivation of liberty in the case of minors was a measure of final resort and to say whether those new provisions were accompanied by express safeguards. He was also concerned by the provision of Act No. 18777 which allowed courts to deliver a final decision without the submission of a report from the technical team, a situation that tended to weaken the system of guarantees provided by the Convention. Similarly, he was concerned by the initiative to hold a referendum on lowering the age of criminal responsibility. He would welcome comments on those points.

8. Some information pointed to a lack of dialogue between the National Human Rights Institution, the authorities and NGOs, especially with regard to juvenile justice, and substantial tension on account of that situation. Could the delegation say whether the authorities regarded communication channels among the various stakeholders to be satisfactory and whether they offered an opportunity to draw on NGO experience? He also wondered if the budgets allocated to the National Human Rights Institution were sufficient to secure its independence and autonomy. Seen in relation to their proportion of the population, the number of women in Uruguay who were killed by their husband or partner was one of the highest in Latin America. According to data supplied by Ministry of the Interior, 23,988 cases of domestic violence had been reported in 2012. He would be grateful if the delegation could describe developments in that sphere and any measures taken to combat that kind of violence and to avoid further trauma to women who filed a complaint. Were there any plans to open additional shelters for victims? He also requested the delegation to provide data on investigations into trafficking in persons, the prosecution of traffickers and the sentences passed. Could it also please say whether there was a plan expressly to include the principle of non-refoulement in Act No. 18076 (right of asylum and refugees' rights), whether there had been any instances of extrajudicial rendition and whether national legislation established universal jurisdiction over acts of torture? Could it possibly furnish details of the exercise of that jurisdiction by the courts? Lastly, comments on information to the effect that forms of punishment and practices contrary to the Convention existed in the SER detention centre would be welcome.

9. **Mr. Gaye** (Country Rapporteur) asked for fuller information on the contents of the manual for persons deprived of liberty, on work to modify it and on progress with the prison management manual. He noted that the State party had neither said whether steps had been taken to modernize the judiciary and speed up the course of justice nor supplied any information about the assessment of the training State officials received. Despite the substantial efforts made to improve prison facilities, it was plain that overcrowding in detention centres was still a problem. According to the information available, 60 per cent of detainees were awaiting trial, a situation which again raised the issue of the functioning of the judiciary and the use of alternatives to detention. In that connection, it would be useful to have statistics on the application of Act No. 17897, which authorized house arrest as an alternative to detention in the case of expectant mothers in the last three months of their pregnancy and of nursing mothers for the first three months after delivery.

10. He would welcome details of living conditions in the COMCAR detention centre and in Canelones prison, an explanation of why the SER centre had not been closed, and why detainees from the Colonia Berro centre had not been transferred to other premises in accordance with the recommendations of the Uruguayan Institute for Children and Adolescents. The delegation might wish to comment on information that the National Human Rights Institution had received several complaints that young people held in the SER centre had been subjected to ill-treatment and abuse. Could the delegation explain the reasons for the delay in closing modules 2 and 4 of the COMCAR detention centre, as recommended by the Special Rapporteur on torture and say whether it was true that, after the demolition of some modules at that centre in 2012 following riots, some detainees had spent the following winter in open-air facilities? The Committee had also received reports that a fire in a prison in Rocha department on 8 July 2012 had caused the death of 12 detainees. He would be grateful if the delegation could say whether that information was correct and, if so, whether the circumstances of the tragedy had been investigated.

11. It would be interesting to learn whether any complaints had been lodged when the Parliamentary Commissioner had visited prisons and, if so, what action had been taken. It would likewise be helpful to know whether there were any plans to set up a special complaints mechanism concerned with the ill-treatment of minors in detention and the replacement of the staff members who had committed such acts, as recommended by the Special Rapporteur on torture. Generally speaking, the information at the Committee's disposal showed that the State party was experiencing difficulty in putting in place a countrywide, comprehensive, juvenile justice system that complied with international standards. He would welcome the delegation's comments on that subject.

12. He also wished to know whether, as part of the reform of the Code of Criminal Procedure, the State party was reconsidering all the safeguards offered to persons deprived of their liberty, especially in respect of access to a lawyer and a doctor and of restricting the length of police custody and whether, in that context, it intended to review the provisions of Act No. 18315 on police procedures, which allowed the police to arrest and question someone without a court order. He was surprised that, before initiation of criminal proceedings for serious breaches of human rights during the dictatorship, a preliminary opinion was sought from the executive branch as to whether or not the acts in question were statute barred. That was, to say the least, a curious way in which to proceed, it being incumbent on the courts to decide such an issue. It was hard not to see a connection between that item of information and other information indicating a lack of judicial independence, and other related problems due to the underfunding of the judiciary and the lack of transparency in judges' career progress. The delegation's comments on all those points would be welcome.

13. The State party had not answered the Committee's questions regarding the application of article 14 of the Convention. According to some reports, apparently the procedures for rehabilitating and compensating victims of torture during the dictatorship and their survivors were not working properly. He also wished to know more about those failings and their cause. As for other cases of torture, he wished to know how the National Human Rights Institution could ensure that victims received adequate compensation and rehabilitation, considering that redress usually came at the end of judicial proceedings. With reference to paragraph 560 of the State party's report, which declared that only statements filed with the court were admissible in judicial proceedings, he wondered if one should infer that statements made to the police were inadmissible. Lastly, he requested the delegation to provide additional information about the criminal proceedings instituted in response to a complaint denouncing the exploitation of six Bolivian domestic workers and, if appropriate, their outcome.

14. **Ms. Belmir** expressed concern that, despite the noteworthy efforts made by the State party to reform its law and institutions, some serious shortcomings, which had already been noted when the State party's initial report had been considered, still existed, namely with regard to the functioning of the courts, the dominant role played by the Ministry of the Interior in the criminal justice system and the prison system, and the absence in domestic law of a definition of torture consistent with article 1 of the Convention. She was also worried by the fact that persons who had disappeared over 30 years earlier were considered deceased and wondered if any provisions covered their being found alive after that time limit.

15. **Mr. Domah** said that it would be useful to have statistics on cases of torture that had given rise to criminal proceedings and convictions and on the nature of the sentences passed, including in cases of complicity. In view of the backlog of cases to be heard by the criminal courts, he wondered if the State party had any plans for a fast-track mechanism to clear it.

16. **Ms. Gaer** noted with appreciation that 30 specialized services for dealing with cases of domestic violence were in operation in the country and wished to know if statistics were kept on the number of complaints they each received. She also wished to know more about the measures adopted to improve the receipt and registration of complaints and to afford a more in-depth statistical analysis of family violence. She noted that the State party's report described the resources allocated to the above-mentioned services as scarce, and sought clarification with regard to the shortfalls and steps taken or contemplated to plug them. Although the judiciary did not have a protocol for dealing with victims of domestic violence, it could base itself on the provisions regulating the police procedure to be followed with regard to domestic violence, which were set forth in Executive Decree No. 317/010. It would be interesting to know if the courts did include that procedure in their practice. It would also be useful to have some details of the data forming the basis of the State party's statement in paragraph 226 of its report that domestic violence committed or suffered by police officers was a significant institutional problem and of the road map being drawn up to establish the rules of procedure to be followed in cases of domestic violence involving members of the police force (para. 228). Lastly, it would be interesting to know what provisional conclusions could be drawn from the pilot project launched in February 2013 concerning the use of electronic bracelets as a means of preventing domestic violence.

17. **Mr. Modvig** asked whether the resources allocated to the national preventive mechanism were sufficient to ensure that doctors and psychologists properly trained in the use of the Istanbul Protocol were always on the teams responsible for conducting investigations, whether the national preventive mechanism had already made recommendations to the authorities and, if so, on what subject, and what action had been taken on them. He also wished to know when the transfer of responsibility for the prison health services from the Ministry of the Interior to the Public Health Service would be completed and to what extent the financing of those services had taken account of the higher rate of imprisonment recorded in the country in recent years.

18. **Mr. Tugushi** asked what measures were contemplated to improve the equality of arms in judicial proceedings, replace the inquisitorial system by an adversarial system and reduce the numbers in pretrial detention. In view of the large proportion of juvenile offenders imprisoned in the country, he wished to know whether a thorough reform of the juvenile justice system was under consideration with a view to making greater use of non-custodial sentences. Referring to the report submitted to the Committee by the National Human Rights Institution, he wondered whether the post of head of the Inspectorate General of Psychopaths, which had become vacant on the death of its holder, had been filled. What had been the precise subject matter of the agreement between the Inspectorate General and the National Human Rights Institution, the negotiation of which had been

suspended? He was also curious to know whether measures had been adopted to prevent a lack of appropriate reception facilities leading to the placement of persons in need of social assistance in psychiatric hospitals. The delegation might say whether the numerous allegations of ill-treatment of minors in detention had prompted investigations and whether the perpetrators had been convicted. Could the delegation also comment on information to the effect that staff members of the establishments in question had been the victim of reprisals because they had denounced such practices or opposed them?

19. **The Chairperson** (Country Rapporteur) asked for details of the solitary confinement procedure, which appeared not to offer all the requisite safeguards of due process. The delegation might also comment on reports of the murders of five transsexual women, only one of which had been investigated. Could the delegation also report on the outcome of the appeal lodged by the Ministry of the Interior in November 2012 against the judgement ordering the Government to pay damages in the amount of 40,000 dollars following a fire at the Santiago Vázquez prison complex in August 2009, in which five detainees had lost their lives? He asked what progress had been made in investigations to establish who was responsible for the death of several persons who had disappeared during the dictatorship and whose mortal remains had been located and identified. Lastly, he wished to know whether, in the case of four soldiers from the Uruguayan contingent of the United Nations Stabilization Mission in Haiti (MINUSTAH) who had been convicted of sexual assault on a Haitian teenager, the victim had obtained redress, as required by article 14 of the Convention.

The first (public) part of the meeting rose at noon.